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Status of Biomass Sustainability Certification in Germany

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Report Highlights:

As of July 1, 2010, biofuels will need a “proof of sustainability” certificate from an approved sustainability system in order to be eligible for tax incentives or mandates in Germany. In order to be able to certify production, U.S. industry can work with an existing German certification system or develop its own system and have it approved in Germany. Information on requirements for approval of certification systems can be obtained from the German Federal Agency for Agriculture and Nutrition (BLE).

General Information:

In its Renewable Energy Directive 2009/28/EC (RED), the EU stipulates that biofuels must be produced from biomass feedstock that meets certain sustainability criteria to be eligible for financial consumption incentives and to count towards national targets and obligations for renewable energy use. Member States (MS) must transpose the RED regulation into national law by December 5, 2010. Germany is the first MS to do so. For administrative reasons the implementation was split into two separate regulations, one for biomass used for electricity production (*BioSt-NachV*) and one for biomass used for biofuel production (*Biokraft-NachV*). Since Germany does not import biomass for electricity production from the United States, this report focuses on the *Biokraft-NachV*.

The German “Regulation on the requirements for sustainable production of biofuels (Biokraftstoff-Nachhaltigkeitsverordnung - Biokraft-NachV) was published in the German Federal Gazette (BGBl) on October 5, 2009, and will be applied to biofuels marketed as of July 1, 2010. Biofuels marketed between July 1, 2010 and December 31, 2010 will be exempted on the condition of proof that the biomass was harvested prior to January 1, 2010.

The Biokraft-NachV contains details on the sustainability criteria and compliance verification.

Sustainability Criteria

The sustainability criteria are identical with those stipulated in Article 17 of the RED:

- Greenhouse gas emission savings must be at least 35 percent, increasing to at least 50 percent on January 1, 2017, and 60 percent from January 1, 2018, for installations starting production after December 31, 2016.
- Biomass must not be obtained from land with high biodiversity value.
- Biomass must not be obtained from land with high carbon stock.
- Biomass must not be obtained from land that was peat land in January 2008.
- Biomass production on agricultural land in the EU must be in compliance with council regulation EC/73/2009 (“cross compliance” regulation).

However, the Biokraft-NachV provides more details on the individual criteria, for example, the definition of land with “high biodiversity value”.

Compliance Verification

Biofuel that is subject to this regulation must be accompanied throughout the supply chain by a sustainability certificate, also called "proof of sustainability" (POS). These certificates can be issued by approved certification bodies or environmental verifiers, who are approved according to EU regulation 1221/2009 and work with an approved certification system. Certification bodies and certification systems have to be approved by the [German Federal Agency for Agriculture and Nutrition \(BLE\)](#) and according to EU regulation 1221/2009. Certificates from a voluntary but not approved sustainability scheme, for example the Roundtable for Responsible Soy (RTRS), are not accepted for the purpose of this regulation.

BLE has put on its website a 84 page guide [Leitfaden nachhaltige Biomasseherstellung](#) that provides detailed information on the requirements for sustainable biomass production as well as on the

requirements for the approval of a certification system and certification bodies. Currently the guide is only available in German language, however, BLE has announced that it will provide an English version by the end of March 2010.

At this time, only one certification system, the [International Sustainability and Carbon Certification](#), (ISCC) has been granted provisional approval. In addition, a second system, REDcert GmbH, is under development with support from the German farming sector, trade associations, oilmillers' association, biofuel associations, and the petroleum industry.

Currently there are four certification bodies approved, [TÜV-SÜD](#), [SGS](#), [BQS](#), and [GUTcert](#). Two of these, TÜV-Süd and SGS, have subsidiaries in the United States.

What this means for U.S. soybean and soybean oil exporters

Soybeans and soybean oil can be exported without a “proof of sustainability certificate” (POS) if the soybean oil is used only for food production or if the final biofuel neither receives any tax incentive nor is used to comply with a mandate. In practice it will be difficult to determine the end use of the soybeans and soybean oil at the time of export. Therefore, in most instances German importers, traders, oilmillers, and biofuel producers will likely require a POS when purchasing oilseeds and other feedstocks.